

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
<u>Universal Service Reform – Mobility Fund</u>	)	WT Docket No. 10-208

**THE ALASKA RURAL COALITION REPLY TO OPPOSITIONS  
TO PETITION FOR RECONSIDERATION**

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Adak Eagle Enterprises LLC	Arctic Slope Telephone Association Cooperative, Inc.
Bettles Telephone, Inc.	Bristol Bay Telephone Cooperative, Inc.
Bush-Tell, Inc.	Circle Telephone & Electric, LLC
Cordova Telephone Cooperative, Inc.	Copper Valley Telephone Cooperative, Inc.
City of Ketchikan, Ketchikan Public Utilities	Matanuska Telephone Association, Inc.
OTZ Telephone Cooperative, Inc.	Interior Telephone Company
Mukluk Telephone Company, Inc.	Alaska Telephone Company
North Country Telephone Inc.	Nushagak Electric and Telephone Company, Inc.
The Summit Telephone and Telegraph Company, Inc.	Yukon Telephone Company, Inc.

The Alaska Rural Coalition<sup>1</sup> (the “ARC”) hereby files reply comments regarding its Petition for Reconsideration of certain portions of the Federal Communications Commission’s (the “Commission”) November 18, 2011 *USF/ICC Transformation Order* filed on December 29, 2011.<sup>2</sup> The ARC specifically addresses the Comments on Petitions for Reconsideration submitted by General Communication, Inc. (“GCI”) and the Opposition of Alaska Communications Systems Group, Inc. submitted by Alaska Communications Systems Group, Inc., on behalf of its operating subsidiaries (“ACS”).

**I. A Two Year Delay in the Implementation of Elimination of Identical Support Should Extend to All Carriers Serving Remote Alaska.**

The ARC supports the Commission’s grant of relief to CETCs serving Remote Alaska and appreciates the Commission’s efforts in adopting Alaska-specific measures in providing

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<sup>1</sup> The ARC is composed of Adak Eagle Enterprises LLC; Arctic Slope Telephone Association Cooperative, Inc.; Bettles Telephone, Inc.; Bristol Bay Telephone Cooperative, Inc.; Bush-Tell, Inc.; Circle Telephone & Electric, LLC; Cordova Telephone Cooperative, Inc.; Copper Valley Telephone Cooperative, Inc.; City of Ketchikan, Ketchikan Public Utilities; Matanuska Telephone Association, Inc.; OTZ Telephone Cooperative, Inc.; Interior Telephone Company; Mukluk Telephone Company, Inc.; Alaska Telephone Company; North Country Telephone Inc.; Nushagak Electric and Telephone Company, Inc.; The Summit Telephone and Telegraph Company, Inc.; and Yukon Telephone Company, Inc.

<sup>2</sup> See Alaska Rural Coalition Petition for Reconsideration, WC Docket Nos. 10-90 et al. (Dec. 29, 2011) (“ARC Petition for Reconsideration”). See also *Connect America Fund, A National Broadband Plan for our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 10-90, 05-337, 07-135, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51 (Nov. 18, 2011) (“Transformation Order”).

support for broadband deployment throughout Alaska. ACS echoed this support in its comments to the ARC's Petition for Reconsideration.<sup>3</sup>

The ARC desires the best result for *all* of Alaska's consumers, so it continues to believe that a two-year transition should apply equally to all ETCs in Remote Alaska. A smooth and equitable transition will require affirmative action by the Commission to ensure that no carrier is substantially burdened by the rules and procedures used to implement the Commission's broadband benchmarks. In its comments, ACS agreed with the ARC that the *Transformation Order* "does not go far enough to ensure adequate support for broadband deployment in Alaska" and "the broadband availability gap will continue to affect remote areas of Alaska more than virtually any other region of the nation."<sup>4</sup>

A two year delay in implementing high cost reductions would provide a more stable environment in Remote Alaska to promote deployment of broadband services. The ARC believes it is essential for the Commission to ensure adequate support on an equal basis throughout Alaska. All ETCs in Alaska must be required to comply with applicable rule changes during the two year transition, as well as during the eventual phase down of identical support, to maintain a level playing field. To receive high cost support, each CETC, not just the rate of return or price cap companies, must comply with Commission directives. Because no Alaska carrier has objected to any of these propositions, the Commission should reconsider denying rate of return carriers the same two year transition to the *Transformation Order* as it granted CETCs

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<sup>3</sup> Opposition of Alaska Communications Systems Group, Inc., WC Docket Nos. 10-90 et al. (Feb. 9, 2012) ("ACS Comments") at 3 ("ACS applauds the Alaska-specific measures adopted by the Commission").

<sup>4</sup> ACS Comments at 3.

in Alaska and reconsider implementing a two year delay of the additional limitations on loop Costs, Corporate Operate Expenses and Safety Net Additive in Alaska.<sup>5</sup>

Both ACS and GCI voiced objections to the ARC's perception that some of the Commission's procedures may have been inequitable and worked to disadvantage rural consumers.<sup>6</sup> The ARC maintains its position that all remote carriers should be treated equally, and all voices should be heard. The ARC is a unique coalition of entities representing virtually all rural Alaskan communities. ARC members have limited resources and are naturally at a disadvantage when compared to their much larger competitors.<sup>7</sup> Ensuring equal treatment of all ETCs is the primary goal of the ARC in its Petition for Reconsideration, and no other Alaska carrier has an objection to achieving this goal. The ARC merely asks the Commission to take note of all Alaska carriers and ensure that equal treatment does occur when implementing, assessing and reconsidering its rules and procedures as it moves forward in this matter.<sup>8</sup>

## **II. Middle Mile Costs Should Factor into Broadband Benchmark Analysis.**

The ARC continues to believe that middle mile costs should factor into broadband benchmark analysis, or alternatively that the order be modified to include an Alaska-Specific

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<sup>5</sup> ACS specifically stated that it had "no objection" to allowing a two year delay for all ETCs in Alaska. ACS Comments at 4. GCI did not offer any specific opinion or objection on the issue.

<sup>6</sup> See ACS Comments at 4; General Communication, Inc. Comments on Petitions for Reconsideration, WC Docket Nos. 10-90 et al. (Feb. 9, 2012) ("GCI Comments") at 2-3.

<sup>7</sup> The ARC continues to advocate that ILECs should not lose critical support where there is a competitor offering an overlapping service. Even where the unsubsidized carrier enjoys a 100% overlaps of an ILEC's service area, the ARC believes that high cost support continues to play a vital role in the stability of the ILEC and sustainability of the competition.

<sup>8</sup> See ARC Petition for Reconsideration at 3-10.

middle mile support mechanism to offset Alaska's extremely and unavoidably high middle mile costs. The ARC appreciates ACS's support for the ARC's concerns pertaining to the terrestrial backhaul in Alaska.<sup>9</sup> The ARC agrees that "backhaul must be both available and *affordable* in order for broadband deployment to be feasible."<sup>10</sup>

In its Petition for Reconsideration, the ARC explained that broadband benchmarks established for ETCs will require substantial capacity on satellite middle mile facilities that currently have limited availability and thus raise serious capacity concerns.<sup>11</sup> ACS agreed that Alaska is unique because the relative availability of middle mile capacity is exponentially less than capacity available in the lower 48 states.<sup>12</sup> Rural carriers are unable to control this lack of capacity and are unable to remedy the issue unilaterally. To help remedy this serious capacity issue, the Commission should factor terrestrial backhaul availability and affordability into its broadband benchmark analysis. ACS stated that the lack of sufficient availability and affordability of terrestrial backhaul "has led to near-monopolistic pricing practices" and agreed with the ARC that the Commission should clarify the definition of "available" terrestrial backhaul.<sup>13</sup>

In other areas, where there is adequate capacity, there is still an extremely and unavoidably high middle mile cost. To meet the FCC's goal of bringing affordable broadband to

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<sup>9</sup> See ACS Comments at 4–5.

<sup>10</sup> *Id.* at 4 (emphasis in original).

<sup>11</sup> See ARC Petition for Reconsideration at 10–16.

<sup>12</sup> ACS Comments at 4.

<sup>13</sup> *Id.* at 4–5.

all Americans, it is imperative that more be done to assist and truly incentivize companies to develop telecommunications networks capable of delivering broadband services to rural Alaska at comparable and affordable prices. Specifically, we request that the *Transformation Order* be modified to include an Alaska-specific middle mile support mechanism to offset Alaska's extremely and unavoidably high middle mile costs.

The ARC believes the Commission should reconsider and factor the cost of terrestrial middle mile access into a rural ILEC's obligations. GCI generally did not comment on whether terrestrial backhaul was currently available or affordable. Rather than dispute the high cost of access to the TERRA-SW Project, GCI blithely claimed it was a non-dominant service beyond the scope of the docket.<sup>14</sup> ACS indicated in its comments that it had similar negative experiences with procuring affordable access to the TERRA-SW Project.<sup>15</sup> GCI believes that these concerns about "the availability of transport services on United Utilities' TERRA-SW network are immaterial to any requested relief."<sup>16</sup>

The ARC uses the TERRA-SW example to support its request that the cost of terrestrial middle mile be factored into an ILEC's obligation.<sup>17</sup> GCI fails to recognize that the ARC and ACS's frustrating attempts to obtain economical price quotes from United Utilities, Inc., GCI's wholly owned subsidiary ("UUI"), actually illustrate the lack of availability and affordability of

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<sup>14</sup> See GCI Comments at 3 n.7.

<sup>15</sup> See ACS Comments at 5 n.8.

<sup>16</sup> GCI Comments at 3 n.7.

<sup>17</sup> See ARC Petition for Reconsideration at 11–14.

terrestrial backhaul in Alaska.<sup>18</sup> ACS also inquired about price quotes for terrestrial backhaul from UII's TERRA-SW network and was initially ignored by GCI. ACS finally obtained price quotes after many attempts made over several months and after submitting a formal demand letter. The resulting price quote was "no more economical than satellite backhaul."<sup>19</sup> These similar experiences speak for themselves: GCI, through its subsidiary, has not provided carriers with price quotes in a reasonable manner, and when it actually has provided price quotes, the quotes are far too non-economical to even consider for purchase as middle mile transport. The comments of the ARC and ACS reveal that terrestrial backhaul is not available and affordable as it currently stands and that GCI is benefiting from current discriminatory circumstances at the expense of Alaska's other rural carriers. The broadband availability gap is a reality in Alaska, and rural carriers will suffer tremendous economic consequences if the Commission does not help resolve this serious issue.

The ARC strongly urges the Commission to factor the cost of terrestrial backhaul into rural carriers' ability to meet broadband benchmarks required to receive high cost support. The Commission should define what "available" means to terrestrial backhaul in terms of capacity in the *Transformation Order*. Further, the Commission should address the current situation in which the cost of terrestrial backhaul exceeds reason and the high cost support available to carriers to purchase backhaul and modify the order to include an Alaska-specific middle mile support mechanism to offset Alaska's extremely and unavoidably high middle mile costs. The

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<sup>18</sup> GCI does not dispute that there are concerns that the capacity is already committed and unable to accommodate other carriers and that a significant portion of the TERRA-SW Project capacity was committed to GCI upon construction of the project. In other words, GCI does not dispute that it currently enjoys a more advantageous situation than most rural carriers in regard to obtaining broadband capacity.

<sup>19</sup> ACS Comments at 5 n.8.



current position of the Commission places carriers in a precarious position and does not advance what should be a primary goal, the deployment of broadband to unserved areas with the ability to establish a reasonable price for service.

### **III. Reporting Deadlines Contained in the Order Fail to Reflect Business Realities.**

Because no Alaska carrier objected to the ARC's requests for extensions pertaining to the reporting deadlines, the ARC maintains its requests as stated in its Petition for Reconsideration.<sup>20</sup> The Commission's current rule requiring administrative reports to be filed on or before April 1 is not accommodating to the business realities of carriers serving Remote Alaska. Alaskan rate of return carriers are not publicly traded, and many do not have stringent auditing requirements analogous to those required by the *Transformation Order*. The reporting requirements for audits will likely create timing issues with demand exceeding the availability of accounting firms in remote and sparsely populated areas of Alaska. In turn, this is likely to result in remote carriers receiving significant penalties. Remote carriers would benefit from an expeditious exemption from the Commission's current deadlines.

The ARC respectfully requests that the Commission extend its reporting deadline to July 1 to accommodate the audit and other reporting cycles of small rate of return companies and allow easier compliance with Commission rules. The ARC additionally requests that the Commission reconsider providing an automatic 60 day extension upon notice by a rate of return

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<sup>20</sup> See ARC Petition for Reconsideration at 16–17. See also *Connect America Fund, A National Broadband Plan for our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Order to Revise and Clarify Certain Rules*, WC Docket Nos. 10-90 et al. (Feb. 3, 2012).

carrier in Remote Alaska that it will be unable to file its audit report as required by the Commission rule due to circumstances beyond the rural carrier's control.

#### **IV. Tribal Consultation Should Be Reconsidered or Clarified.**

Because no Alaska carrier objected to the ARC's request for the Commission to clarify how consultation may be achieved with Alaska's tribal communities, the ARC reiterates its request for reconsideration.<sup>21</sup> ARC member companies serve communities with significant Alaska Native populations and enjoy strong relationships with tribal communities and their governments. The complex structures associated with tribal governments make compliance with the Commission's implemented rules pertaining to tribal consultation burdensome to ARC members and the tribal communities that they serve.<sup>22</sup> ARC companies already have established practical, dynamic methods of consulting tribes that provide ample opportunity for community discussion. Formalizing new processes and relationships would be artificial and unproductive.

Receiving no objection or comment from other Alaska carriers, the ARC maintains its request that the Commission clarify that Alaskan companies may continue to consult with Alaska Native communities as they currently do, rather than require travel and visitation with each level of tribal governance. In the alternative, the ARC requests that the Commission clarify that an ETC need only consult with the highest level of tribal governance in a service area.

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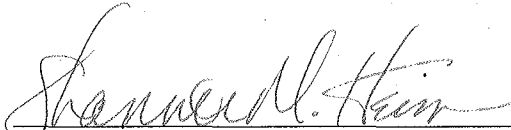
<sup>21</sup> See ARC Petition for Reconsideration at 17–18.

<sup>22</sup> See State of Alaska Comments, WC Docket Nos. 10-90 et al. (Feb. 17, 2012) at 3–4 (discussing the complexity of tribal governments in Alaska as compared with tribal governments in the contiguous U.S. and recommending that the FCC engage with the State of Alaska and Alaskan carriers to determine an appropriate method of obtaining tribal consultation).

Respectfully submitted on this 23rd day of February, 2012.

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By:

A handwritten signature in cursive script, appearing to read "Shannon M. Heim", written over a horizontal line.

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